

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
HUI LAN WENG,

Plaintiff,

15-CV-5737 (ADS)(ARL)

-against-

FANCY LEE SUSHI BAR AND GRILL, INC. and
WINNIE LI, Individually,

Defendants.
----- X

JOINT PRETRIAL ORDER

TRIAL COUNSEL

PHILLIPS & ASSOCIATES, PLLC
By: Jessenia Maldonado, Esq.
Attorneys for Plaintiff
45 Broadway, Suite 620
New York, NY 10006
(212) 248-7431

WILLIAM D. WEXLER, ESQ.
Attorney for Defendants
816 Deer Park Avenue
North Babylon, NY 11703
(631) 422-2900

SUBJECT MATTER JURISDICTION

Plaintiff states:

Plaintiff complains pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (“Title VII”) and the New York State Human Rights Law, New York State Executive Law §290, et. seq. (“NYSHRL”), and seeks damages to redress the injuries Plaintiff has suffered as a result of being Discriminated against and Terminated by her employer solely due to her Pregnancy and Gender. Jurisdiction of this Court is proper under 42 U.S.C. §2000e-5(f)(3), and 28 U.S.C. §§1331 and 1343. The Court has supplemental jurisdiction over the claims of Plaintiff brought under state law pursuant to 28 U.S.C. §1367.

Defendants state:

The Court has subject matter jurisdiction.

PARTIES CLAIMS AND DEFENSES

Plaintiff's Claims:

Title VII and the NYSHRL provides that it shall be an unlawful discriminatory practice for an employer to discriminate against a person in compensation or in terms, conditions or privileges of employment because of the sex/pregnancy of such person. New York State Executive Law §296(a). Plaintiff is pursuing a claim of discrimination due to her discriminatory termination by her employer solely due to her pregnancy and gender

Defendants' Claims and Defenses:

Defendants deny the allegations in the Complaint. Plaintiff voluntarily terminated her position with defendant Fancy Lee Sushi Bar and Grill, Inc.

TRIAL

The case is to be tried with a jury and should require three (3) trial days.

STIPULATED FACTS

- A. On or about April 1, 2011, Plaintiff WENG began working for Defendants as a "Waitress/Bartender," earning approximately \$52,000 per year.
- B. On or about Tuesday, August 19, 2014, Plaintiff Weng reported to work and informed her supervisor, Defendant LI, that she was pregnant.
- C. On or about Thursday, August 21, 2014, Plaintiff Weng was no longer employed by Defendants.

WITNESSES EXPECTED TO TESTIFY

Plaintiff's Witnesses:

- 1. Hui Lan Weng – will testify if person
- 2. Burton Brouard – will testify in person

3. Lindsey Feeley – will testify in person
4. Debbie Duffy – will testify in person
5. Winnie Li – will testify in person. Plaintiff will request leave to treat Defendant Li as a hostile witness.

Defendants' Witnesses:

1. Winnie Li - will testify in person.
2. Anle Li – will testify in person.
3. Wei Qi Shi – will testify in person.
4. Yueng Wai* – will testify in person.
5. Tao Lin* – will testify in person.
6. Zhen Yuan* – will testify in person.

* Plaintiff objects to Defendants calling Yueng Wai, Tao Lin, and Zhen Yuan as Defendants never disclosed these witnesses in their Rule 26(a) disclosures.

DEPOSITION DESIGNATIONS

Plaintiff's Designations:

Plaintiff expects all deposed witnesses to be available for trial. Plaintiff does not intend to introduce deposition testimony in her case in chief except as may be necessary for impeachment purposes and unavailability of witnesses. Since this list was developed prior to the determination of the parties' *motions in limine*, Plaintiff reserves the right to amend this list following the determination of said motions.

Defendants' Designations:

Defendants intend on offering the deposition testimony of the plaintiff, Hui Lan Weng.

EXHIBITS TO BE OFFERED AT TRIAL

Plaintiff's Exhibit List:

- A. WeChat communications between Plaintiff and Defendant Li.
- B. WeChat communications between Plaintiff and Mr. Brouard.
- C. Plaintiff's T-Mobile phone records of August 21, 2014.

Defendants' Exhibit List:

- a. Department of Labor "Attention Employees" (2 pages).

Joint Exhibits:

The parties will jointly use the un-translated WeChat communications between Plaintiff and Defendant Li marked as WENG CONFIDENTIAL 54-57. The parties have also agreed to use a certified translation of those WeChat communications (3 Pages) as a Jury Aid.

Dated: April 20, 2017

/s/
PHILLIPS & ASSOCIATES, PLLC
By: Jessenia Maldonado, Esq.
Attorneys for Plaintiff

WILLIAM D. WEXLER, ESQ.
Attorney for Defendants

SO ORDERED:

HON. ARTHUR D. SPATT